

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed March 25, 2004. Claims 1-10 and 19-29 are pending in the Application. In the Office Action, Claims 1-10, 19-24 and 26-29 were rejected and Claim 25 was objected to. Applicants have cancelled Claims 11-18 without disclaimer or prejudice. Applicants have amended Claims 1, 19, and 25. Applicants submit that no new matter has been added with these amendments. For at least the reasons discussed below, Applicants respectfully request reconsideration and favorable action in this case.

Claim Objection

Claim 25 is objected to because of informalities. Applicants have amended Claim 25 to correct the noted informality. Thus, Applicants respectfully request the withdrawal of the objection of Claim 25.

Section 102 Rejections

The Examiner rejected Claims 1, 19, 3-5, and 21 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,353,593 issued to Chen et al. ("*Chen*"). Applicants respectfully traverse these rejections.

A prior art reference anticipates a claim "only if *each and every element* as set forth in the claim is found, either expressly or inherently described," in that reference. *Verdegaal Bros. v. Union Oil Co.*, 814 F.2d 628, 631 (Fed. Cir. 1987) (emphasis added); *see also* M.P.E.P. § 2131 (quoting *Verdegaal Bros.*, 814 F.2d at 631); *see also* M.P.E.P. § 706.02 ("[F]or anticipation under 35 U.S.C. § 102, the reference must teach *every aspect* of the claimed invention either explicitly or impliedly."). In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as required by the claim." *Richardson v. Suzuki Motor Co.*, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989); *see also In re Bond*, 15 USPQ 2d 1566 (Fed. Cir. 1990); *see also* M.P.E.P. § 2131 (emphasis added). Applicants submit that *Chen* fails to teach each and every element as claimed.

For example, amended Independent Claim 1 recites, "generating a first protection path for connectionless signals from each of the nodes to a destination node." For the teaching of this limitation, the Examiner offers working transmission link 44 as disclosed in *Chen*. Office

Action, Page 3. However, Applicants submit that the offered working transmission link 44 is a working path, **not a protection path**. As disclosed in *Chen*, traffic is initially routed from node 30 to node 24 over working transmission link 44. Col. 4, Lines 40-45. In response to an alarm indication signal (AIS) indicating a fault along working transmission link 44, virtual path (VP) selector 48 selects the traffic transmitted over protection transmission link 46. Col. 4, Lines 49-54. Thus, Applicants submit that the offered working transmission link 44 is a working path, not a protection path. As an additional result of this teaching, *Chen* merely teaches a single protection path, **not two different protection paths** as claimed. Furthermore, the offered transmission links 44 or 46 transmit connection-oriented signals, **not connectionless signals** as claimed. As disclosed in *Chen*, nodes 30, 32, and 34 route asynchronous transport mode (ATM) cells along working transmission link 44 and protection transmission link 46. Col. 3, Lines 43-48. As disclosed in the Background section of *Chen*, ATM “is a connection-oriented packet-switching technology.”

Additionally, Independent Claim 1 recites, “wherein generating the first protection path and generating the second protection path each comprise decomposing the telecommunications network.” For the teaching of this limitation, the Examiner cites several passages that generally discuss how ATM cells are transmitted in virtual paths and virtual channels. However, the Examiner fails to demonstrate how these teachings disclose **decomposing** the telecommunications network. Even the Office Action dated January 7, 2004 suggests that *Chen* fails to disclose decomposing the telecommunications network. Office Action dated January 7, 2004, Page 7, Section 12. Accordingly, Applicants respectfully request reconsideration and allowance of Claim 1 and its dependent claims.

Independent Claim 19 recites limitations that are similar, although not identical, to the limitation of Claim 1 discussed above. Therefore, this claim is allowable for reasons analogous to those discussed above in connection with Claim 1. Accordingly, Applicants respectfully request reconsideration and allowance of Claim 19 and its dependent claim.

Section 103 Rejections

The Examiner rejects Claims 22-24 and 26-29 under 35 U.S.C. § 103(a) as being unpatentable over *Chen* in view of U.S. Patent No. 6,473,397 issued to Au (“*Au*”). Also, the Examiner rejects Claims 6-10 under 35 U.S.C. § 103(a) as being unpatentable over *Chen* in view

of U.S. Patent No. 5,533,016 issued to Cook, et al. ("*Cook*"). However, *Chen* may not be used in a § 103 rejection of the claims of the present Application.

In particular, 35 U.S.C. § 103(c) specifies that, for applications filed after November 29, 1999, "[s]ubject matter developed by another person, which qualifies as prior art only under one or more subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section [103] where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person" (see also M.P.E.P. § 706.02(k)). First, *Chen* issued on March 5, 2002, after the filing date of the present application (June 6, 2000), and consequently, the reference is available only under 35 U.S.C. § 102(e) for purposes of determining the patentability of the present application. Second, at the time the present invention was made, *Chen* was owned by Fujitsu Network Communications, Inc., while the subject matter of the present application was subject to an obligation of assignment to the same entity (Fujitsu Network Communications, Inc.) and has in fact been assigned to Fujitsu Network Communications, Inc. Since the reference and the application are commonly owned and since *Chen* is not available under § 103 as a reference, Applicant respectfully request withdrawal of the § 103 rejections and allowance of Claims 6-10, 22-24, and 26-29.

Allowable Subject Matter

Applicants note with appreciation the indication that Claim 25 would be allowable if rewritten in independent form. However, Claim 25 depends from allowable independent Claim 19 as shown above. Accordingly, Applicants have not so amended Claim 25 at this time.

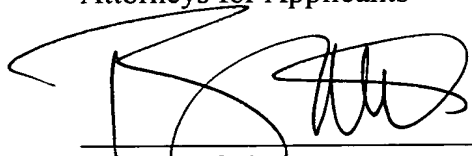
CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully requests full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Brian W. Oaks, Attorney for Applicants, at the Examiner's convenience at (214) 953-6986.

Although no fees are believed to be due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicants



Brian W. Oaks
Reg. No. 44,981

Date: 6/25, 2004

Correspondence Address:

2001 Ross Avenue, Suite 600
Dallas, Texas 75201-2980
(214) 953-6986

05073

Patent Trademark Office